

SENATE BILL 613

A2, P1

11r2586
CF HB 268

By: **Senators Jones–Rodwell and Pugh**

Introduced and read first time: February 4, 2011

Assigned to: Education, Health, and Environmental Affairs

Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: March 28, 2011

CHAPTER _____

1 AN ACT concerning

2 **Board of Liquor License Commissioners for Baltimore City – Ethics, Staff**
3 **Compensation, Open Meetings, and Performance Audit**

4 FOR the purpose of prohibiting a commissioner of the Board of Liquor License
5 Commissioners for Baltimore City or an employee of the Board from having
6 certain interests in businesses or premises relating to the distribution of
7 alcoholic beverages; requiring the Board to set for its appellate counsel the same
8 compensation and benefits as are set for certain inspectors; specifying that an
9 action of a commissioner or employee of the Board is subject to State
10 requirements for open or public meetings; requiring the Office of Legislative
11 Audits to conduct, during a certain period of time, performance audits of the
12 Board to evaluate the management practices of the Board; requiring the audit
13 to focus on certain operations of the Board; requiring the audits to occur at a
14 certain frequency; authorizing the Office of Legislative Audits to have access to
15 and inspect the records of the Board; requiring audit reports of the Board to be
16 distributed to certain persons; defining a certain term; making certain stylistic
17 and conforming changes; requiring the Office of Legislative Audits to initiate its
18 first audit of the Board on or before a certain date; and generally relating to the
19 Board of Liquor License Commissioners for Baltimore City and audits
20 conducted by the Office of Legislative Audits.

21 BY repealing and reenacting, without amendments,
22 Article 2B – Alcoholic Beverages
23 Section 15–112(d)(1)
24 Annotated Code of Maryland

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



1 (2005 Replacement Volume and 2010 Supplement)

2 BY repealing and reenacting, with amendments,
3 Article 2B – Alcoholic Beverages
4 Section 15–112(d)(2) and (10)
5 Annotated Code of Maryland
6 (2005 Replacement Volume and 2010 Supplement)

7 BY adding to
8 Article 2B – Alcoholic Beverages
9 Section 15–112(d)(15)
10 Annotated Code of Maryland
11 (2005 Replacement Volume and 2010 Supplement)

12 BY adding to
13 Article – State Government
14 Section 2–1220(f)
15 Annotated Code of Maryland
16 (2009 Replacement Volume and 2010 Supplement)

17 BY repealing and reenacting, with amendments,
18 Article – State Government
19 Section 2–1223(a)(3) and 2–1224
20 Annotated Code of Maryland
21 (2009 Replacement Volume and 2010 Supplement)

22 BY repealing and reenacting, without amendments,
23 Article – State Government
24 Section 2–1223(b)
25 Annotated Code of Maryland
26 (2009 Replacement Volume and 2010 Supplement)

27 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
28 MARYLAND, That the Laws of Maryland read as follows:

29 **Article 2B – Alcoholic Beverages**

30 15–112.

31 (d) (1) This subsection applies only in Baltimore City.

32 (2) A commissioner or employee of the Board:

33 (i) May not have any interest, direct or indirect, either
34 proprietary or by means of any loan, mortgage or lien, or in any other manner, in or on
35 any premises where alcoholic beverages are manufactured, **DISTRIBUTED**, or sold;

1 (ii) May not have any interest, direct or indirect, in any
 2 business wholly or partially devoted to the manufacture, **DISTRIBUTION**, or sale of
 3 alcoholic beverages; [or]

4 (iii) May not own any stock in any corporation which has any
 5 interest, proprietary or otherwise, direct or indirect, in any premises where alcoholic
 6 beverages are manufactured, **DISTRIBUTED**, or sold or in any business wholly or
 7 partially devoted to the manufacture, **DISTRIBUTION**, or sale of alcoholic beverages;
 8 **OR**

9 (IV) **MAY NOT RECEIVE ANY SALARY OR OTHER**
 10 **COMPENSATION OR ANY OTHER THING OF VALUE FROM A BUSINESS ENGAGED**
 11 **IN THE MANUFACTURE, DISTRIBUTIONS, OR SALE OF ALCOHOLIC BEVERAGES.**

12 (10) The Board shall:

13 (i) Employ a qualified attorney to serve as appellate counsel for
 14 the Board in actions of appeal; and

15 (ii) Set for appellate counsel the same compensation and
 16 benefits as are set for [full-time inspectors] **THE ASSISTANT CHIEF**
 17 **INSPECTOR-GRADE 097 OR THE CHIEF INSPECTOR-GRADE 099.**

18 (15) **AN ACTION OF A COMMISSIONER OR EMPLOYEE OF THE**
 19 **BOARD IS SUBJECT TO STATE REQUIREMENTS FOR OPEN OR PUBLIC MEETINGS,**
 20 **INCLUDING REQUIREMENTS FOR OPEN SESSIONS UNDER TITLE 10, SUBTITLE 5**
 21 **OF THE STATE GOVERNMENT ARTICLE.**

22 **Article – State Government**

23 2–1220.

24 (F) (1) **AT LEAST ONCE EVERY 3 YEARS, THE OFFICE OF**
 25 **LEGISLATIVE AUDITS SHALL CONDUCT A PERFORMANCE AUDIT OF THE BOARD**
 26 **OF LIQUOR LICENSE COMMISSIONERS FOR BALTIMORE CITY TO EVALUATE**
 27 **THE EFFECTIVENESS AND EFFICIENCY OF THE MANAGEMENT PRACTICES OF**
 28 **THE BOARD AND OF THE ECONOMY WITH WHICH THE BOARD USES RESOURCES.**

29 (2) **THE PERFORMANCE AUDIT SHALL FOCUS ON OPERATIONS**
 30 **RELATING TO LIQUOR INSPECTIONS, LICENSING, DISCIPLINARY PROCEDURES,**
 31 **AND MANAGEMENT OVERSIGHT.**

32 2–1223.

1 (a) (3) The employees or authorized representatives of the Office of
2 Legislative Audits shall have access to and may inspect the records, including those
3 that are confidential by law, of:

4 (I) any local school system to perform the audits authorized
5 under § 2-1220 of this subtitle or in accordance with a request for information as
6 provided in § 5-114(d) of the Education Article; AND

7 (II) **THE BOARD OF LIQUOR LICENSE COMMISSIONERS FOR**
8 **BALTIMORE CITY TO PERFORM THE AUDITS AUTHORIZED UNDER § 2-1220(F)**
9 **OF THIS SUBTITLE.**

10 (b) Each officer or employee of the unit or body that is subject to examination
11 shall provide any information that the Legislative Auditor determines to be needed for
12 the examination of that unit or body, or of any matter under the authority of the Office
13 of Legislative Audits, including information that otherwise would be confidential
14 under any provision of law.

15 2-1224.

16 (A) **IN THIS SECTION, “UNIT” INCLUDES THE BOARD OF LIQUOR**
17 **LICENSE COMMISSIONERS FOR BALTIMORE CITY.**

18 [(a)] (B) Except with the written approval of the Legislative Auditor, an
19 employee or authorized representative of the Office of Legislative Audits shall submit
20 any report of findings only to the Legislative Auditor.

21 [(b)] (C) (1) On the completion of each examination, the Legislative
22 Auditor shall submit a full and detailed report to the Joint Audit Committee.

23 (2) A report shall include:

24 (i) the findings;

25 (ii) any appropriate recommendations for changes in record
26 keeping or in other conduct of the unit or body that is the subject of the report; and

27 (iii) any response of that unit or body, subject to procedures
28 approved by the Joint Audit Committee.

29 [(c)] (D) The Legislative Auditor shall send a copy of the report to:

30 (1) the President of the Senate and the Speaker of the House of
31 Delegates;

1 (2) the Chairmen of the Senate Budget and Taxation and House
2 Appropriations Committees;

3 (3) members of the General Assembly, subject to § 2-1246 of this
4 subtitle;

5 (4) the Governor, UNLESS THE REPORT IS OF THE BOARD OF
6 LIQUOR LICENSE COMMISSIONERS FOR BALTIMORE CITY;

7 (5) the Comptroller;

8 (6) the State Treasurer, UNLESS THE REPORT IS OF THE BOARD OF
9 LIQUOR LICENSE COMMISSIONERS FOR BALTIMORE CITY;

10 (7) the Attorney General, UNLESS THE REPORT IS OF THE BOARD
11 OF LIQUOR LICENSE COMMISSIONERS FOR BALTIMORE CITY;

12 (8) the unit or body that is the subject of the report;

13 (9) the Secretary of Budget and Management, UNLESS THE REPORT
14 IS OF THE BOARD OF LIQUOR LICENSE COMMISSIONERS FOR BALTIMORE CITY;

15 (10) the Executive Director; and

16 (11) any other person whom the Joint Audit Committee specifies.

17 [(d)] (E) In addition to the requirements of subsection [(c)] (D) of this
18 section, each report of:

19 (1) a local school system shall be distributed to the chair of the House
20 Ways and Means Committee and the cochairs of the Joint Committee on the
21 Management of Public Funds; AND

22 (2) **THE BOARD OF LIQUOR LICENSE COMMISSIONERS FOR**
23 **BALTIMORE CITY SHALL BE DISTRIBUTED TO THE CHAIR OF THE BALTIMORE**
24 **CITY DELEGATION AND THE CHAIR OF THE BALTIMORE CITY SENATORS.**

25 [(e)] (F) After the expiration of any period that the Joint Audit Committee
26 specifies, a report of the Legislative Auditor is available to the public under §§ 10-602
27 and 10-611 through 10-628 of this article.

28 [(f)] (G) (1) The Legislative Auditor shall review each unit's response
29 and advise the unit of the results of the review. The Legislative Auditor shall advise
30 the Joint Audit Committee when:

31 (i) a unit does not make a response to a recommendation;

1 (ii) a unit does not indicate action to be taken in response to a
2 recommendation;

3 (iii) a unit has not taken the action the unit indicated in its
4 response to a recommendation;

5 (iv) a unit requests a waiver from a recommendation; or

6 (v) the response by the unit is not considered appropriate to
7 carry out the recommendation.

8 (2) The Executive Director or the Joint Audit Committee may direct
9 the Legislative Auditor to undertake a review to determine the extent to which action
10 has been taken by a unit to implement a report recommendation.

11 (3) With respect to findings and recommendations of a
12 fiscal/compliance nature, the Committee may recommend to the Governor and the
13 Comptroller that the unit take the corrective action the unit indicates would be taken
14 or take action to correct the findings in the report or the Committee may grant a
15 waiver from the recommended action.

16 (4) Within 45 days after receipt of the recommendation the Governor
17 shall advise the Committee as to the action taken with respect to the recommendation.

18 (5) Without concurrence of the Comptroller, the Committee may not
19 waive a recommendation of the Legislative Auditor with respect to fiscal and financial
20 record keeping, a uniform system of accounting, or the submission of fiscal and
21 financial reports by the units.

22 (6) With respect to findings and recommendations of a performance
23 nature, the Committee may make recommendations to the Governor or propose
24 legislation after reviewing a unit's response to a recommended action.

25 (7) The Legislative Auditor shall review each local school system's
26 response to an audit conducted under § 2-1220(e) of this subtitle and advise the local
27 school system of the results of the review. The Legislative Auditor shall advise the
28 Joint Audit Committee when a local school system:

29 (i) does not make a response to a recommendation;

30 (ii) does not indicate action to be taken in response to a
31 recommendation;

32 (iii) has not taken the action the local school system indicated in
33 its response to a recommendation; or

1 (iv) responds in a manner that is not considered appropriate to
2 carry out the recommendation.

3 (8) The Executive Director or the Joint Audit Committee may direct
4 the Legislative Auditor to undertake a review to determine the extent to which action
5 has been taken by a local school system to implement a report recommendation.

6 (9) With respect to findings and recommendations made to a local
7 school system, the Joint Audit Committee may make recommendations to the
8 Governor, State Superintendent of Schools, the local school governing board, or local
9 school officials after reviewing a local school system's response to a recommended
10 action.

11 **[(g)] (H)** (1) The Governor and the Chief Judge of the Court of Appeals
12 shall implement systems and processes to monitor the efforts of the Executive
13 Departmental Units and the Judiciary, respectively, to correct audit findings reported
14 by the Office of Legislative Audits.

15 (2) Within 9 months of the most recent audit report, any unit [of State
16 government] that has five or more repeat audit findings shall report to the Office of
17 Legislative Audits for each finding in that audit report:

18 (i) the corrective actions taken; or

19 (ii) a schedule for when specific corrective actions will be
20 implemented.

21 (3) Each unit required to report to the Office of Legislative Audits
22 under paragraph (2) of this subsection shall continue to report to the Office of
23 Legislative Audits on a quarterly basis after the initial report until the actions
24 reported by the agency indicate that satisfactory progress has been made to address
25 all findings.

26 SECTION 2. AND BE IT FURTHER ENACTED, That the Office of Legislative
27 Audits shall initiate its first audit of the Board of Liquor License Commissioners for
28 Baltimore City under this Act on or before November 1, 2011.

29 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect
30 October 1, 2011.